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/

Serial No. 10/763,133; Navy Case No. 84715

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:
CHRISWELL HUTCHENS et al
Serial No.: 10/763,133
Filed: 22 January 2004
For: INTEGRATED PORPHORYN-BASED OPTICAL CHEMICAL SENSOR

Examiner: XXXX
Group Art Unit: XXXX

**PETITION TO THE COMMISSIONER UNDER 37 CFR 1.137(b)
REQUESTING REVIVAL OF UNINTENTIONALLY ABANDONED APPLICATION**

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This is a request to revive an unintentionally abandoned application under 37 CFR 1.137(b).

As required by 37 CFR 1.137(b), included with this petition are the following items:

(1) The required reply. In this instance, the Notice of Missing Parts of 28 April 2004 required the missing oath/declaration of co-inventor Chris Hutchens. Attached hereto as Attachment 1 is the required declaration of co-inventor Hutchens.

(2) The petition fee under 37 CFR 1.17(m). Attached hereto is a fee transmittal authorizing this fee, and identified as Attachment 2.

(3) A statement (declaration) by Applicants' attorney of record that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(a) was unintentional. This declaration is attached hereto and is

file\p:\patent\pal.pat\nc\84715\84715pet.wpd

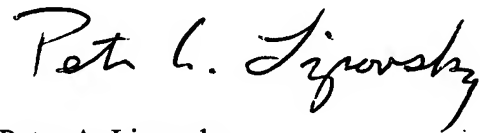
Serial No. 10/763,133; Navy Case No. 84715

identified as Attachment 3.

Finally, enclosed as Attachment 4 is a copy of the Notice of Abandonment.

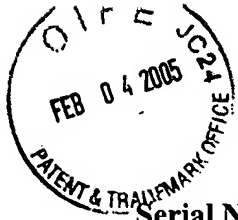
It is trusted that the enclosed documents in conjunction with this petition will suffice to revive the above-identified abandoned application. A favorable response is respectfully requested.

Respectfully submitted,

A handwritten signature in black ink, reading "Pet A. Lipovsky". The signature is written in a cursive, flowing style.

Peter A. Lipovsky
Attorney for Petitioners
Registration Number 32580

27January 2005
Legal Counsel for Patents 20012
Attention: Mr. Peter A. Lipovsky
SPAWARSYSCEN, SAN DIEGO
53510 Silvergate Ave Rm 103
San Diego, CA 92152-5765
(619) 553-3824



Serial No. 10/763,133; Navy Case No. 84715

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

CHRIS HUTCHENS et al

Serial No.: 10/763,133

Filed: 22 January 2004

For: INTEGRATED PORPHORYN-BASED OPTICAL CHEMICAL SENSOR

Examiner: XXXX

Group Art Unit: XXXX

DECLARATION OF PETER A. LIPOVSKY

Honorable Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450

I Peter A. Lipovsky declare:

The entire delay in filing the required reply to the Notice of Missing Parts due 28 June 2004 until the filing of a grantable petition pursuant to 37 CFR 1.137 (b) was unintentional.

I declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further, that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

31 JAN 05

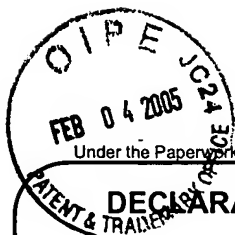
DATE

Peter A. Lipovsky

PETER A. LIPOVSKY

Serial No. 10/763,133; Navy Case No. 84715

27 January 2005
Legal Counsel for Patents 20012
Attention: Mr. Peter A. Lipovsky
SPAWARSYSCEN, SAN DIEGO
53510 Silvergate Ave Rm 103
San Diego, CA 92152-5765
(619) 553-3824



PTO/SB/01 (08-03)

Approved for use through 07/31/2006. OMB 0651-0032

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

**DECLARATION FOR UTILITY OR
DESIGN
PATENT APPLICATION
(37 CFR 1.63)**Declaration
Submitted
With Initial
Filing

OR

Declaration
Submitted after Initial
Filing (surcharge
(37 CFR 1.16 (e))
required)

Attorney Docket Number

84715

First Named Inventor

Hutchens, Chris et al.

COMPLETE IF KNOWN

Application Number

Filing Date

Art Unit

Examiner Name

I hereby declare that:

Each inventor's residence, mailing address, and citizenship are as stated below next to their name.

I believe the inventor(s) named below to be the original and first inventor(s) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

Integrated Circuit Porphyrin-Based Optical Chemical Sensor.

(Title of the Invention)

the specification of which



is attached hereto

OR



was filed on (MM/DD/YYYY)

01/22/2004

as United States Application Number or PCT International

Application Number

and was amended on (MM/DD/YYYY)

(if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment specifically referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in 37 CFR 1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I hereby claim foreign priority benefits under 35 U.S.C. 119(a)-(d) or (f), or 365(b) of any foreign application(s) for patent, inventor's or plant breeder's rights certificate(s), or 365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box, any foreign application for patent, inventor's or plant breeder's rights certificate(s), or any PCT international application having a filing date before that of the application on which priority is claimed.

Prior Foreign Application Number(s)	Country	Foreign Filing Date (MM/DD/YYYY)	Priority Not Claimed	Certified Copy Attached?	
				Yes	No
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
			<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

☐ Additional foreign application numbers are listed on a supplemental priority data sheet PTO/SB/02B attached hereto.

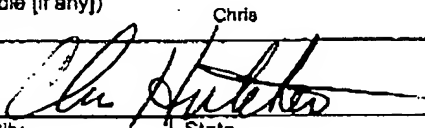
[Page 1 of 2]

This collection of information is required by 35 U.S.C. 115 and 37 CFR 1.63. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 21 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it contains a valid OMB control number.

DECLARATION — Utility or Design Patent Application

Direct all correspondence to: <input checked="" type="checkbox"/> Customer Number: 32897		OR <input type="checkbox"/> Correspondence address below	
Name			
Address			
City		State	ZIP
Country	Telephone	Fax	
I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under 18 U.S.C. 1001 and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.			
NAME OF SOLE OR FIRST INVENTOR:		<input type="checkbox"/> A petition has been filed for this unsigned inventor	
Given Name (first and middle [if any])		Family Name or Surname	
Chris		Hutchens	
Inventor's Signature		Date	
		1/30/05	
Residence: City	State	Country	Citizenship
Stillwater	OK	USA	US
Mailing Address			
1414 Wildwood Drive			
City	State	ZIP	Country
Stillwater	OK	74075	USA
NAME OF SECOND INVENTOR:		<input type="checkbox"/> A petition has been filed for this unsigned inventor	
Given Name (first and middle [if any])		Family Name or Surname	
Richard L.		Waters	
Inventor's Signature		Date	
Residence: City	State	Country	Citizenship
San Diego	CA	USA	US
Mailing Address			
3054 Macaulay Street			
City	State	ZIP	Country
San Diego	CA	92106	USA
<input type="checkbox"/> Additional inventors or a legal representative are being named on the _____ supplemental sheet(s) PTO/SB/02A or 02LR attached hereto.			



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
 United States Patent and Trademark Office
 Address: COMMISSIONER FOR PATENTS
 P.O. Box 1450
 Alexandria, Virginia 22313-1450
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371(C) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/763,133	01/22/2004	Chris Hutchens	84715

CONFIRMATION NO. 6416

ABANDONMENT/TERMINATION
LETTER

OC000000014966230

32697
 OFFICE OF PATENT COUNSEL
 SPAWARSCEN, CODE 20012
 53510 SILVERGATE AVE. ROOM 103
 SAN DIEGO, CA 92152-5765

Date Mailed: 01/14/2005

NOTICE OF ABANDONMENT UNDER 37 CFR 1.53 (f) OR (g)

The above-identified application is abandoned for failure to timely or properly reply to the Notice to File Missing Parts (Notice) mailed on 04/28/2004.

- No reply was received.

A petition to the Commissioner under 37 CFR 1.137 may be filed requesting that the application be revived.

Under 37 CFR 1.137(a), a petition requesting the application be revived on the grounds of **UNAVOIDABLE DELAY** must be filed promptly after the applicant becomes aware of the abandonment and such petition must be accompanied by: (1) an adequate showing of the cause of unavoidable delay; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(l); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Under 37 CFR 1.137(b), a petition requesting the application be revived on the grounds of **UNINTENTIONAL DELAY** must be filed promptly after applicant becomes aware of the abandonment and such petition must be accompanied by: (1) a statement that the entire delay was unintentional; (2) the required reply to the above-identified Notice; (3) the petition fee set forth in 37 CFR 1.17(m); and (4) a terminal disclaimer if required by 37 CFR 1.137(d).

Any questions concerning petitions to revive should be directed to the "Office of Petitions" at (703) 305-9282. Petitions should be mailed to: Mail Stop Petitions, Commissioner for Patents, P.O. Box 1450, Alexandria VA 22313-1450.

*A copy of this notice **MUST** be returned with the reply.*


 Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 2 - COPY TO BE RETURNED WITH RESPONSE



PTO/SB/21 (02-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

9

Application Number

10/763,133

Filing Date

01/22/2004

First Named Inventor

Chriswell Hutchens et al.

Art Unit

Examiner Name

Attorney Docket Number

84715

ENCLOSURES (Check all that apply)

<input checked="" type="checkbox"/> Fee Transmittal Form	<input type="checkbox"/> Drawing(s)	<input type="checkbox"/> After Allowance communication to Technology Center (TC)
<input type="checkbox"/> Fee Attached	<input type="checkbox"/> Licensing-related Papers	<input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences
<input type="checkbox"/> Amendment/Reply	<input checked="" type="checkbox"/> Petition	<input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> After Final	<input type="checkbox"/> Petition to Convert to a Provisional Application	<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Affidavits/declaration(s)	<input type="checkbox"/> Power of Attorney, Revocation	<input type="checkbox"/> Status Letter
<input type="checkbox"/> Extension of Time Request	<input type="checkbox"/> Change of Correspondence Address	<input checked="" type="checkbox"/> Other Enclosure(s) (please identify below):
<input type="checkbox"/> Express Abandonment Request	<input type="checkbox"/> Terminal Disclaimer	
<input type="checkbox"/> Information Disclosure Statement	<input type="checkbox"/> Request for Refund	
<input type="checkbox"/> Certified Copy of Priority Document(s)	<input type="checkbox"/> CD, Number of CD(s) _____	
<input checked="" type="checkbox"/> Response to Missing Parts/Incomplete Application	Remarks	
<input checked="" type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	Declaration of Chriswell Hutchens Copy of Abandonment Notice Declaration of Peter A. Lipovsky	

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm or Individual name	Peter A. Lipovsky, Reg. # 32580
Signature	<i>Peter A. Lipovsky</i>
Date	31 JAN 05

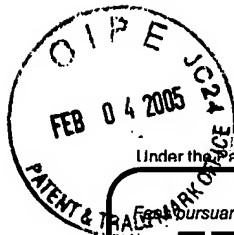
CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Typed or printed name	Rhea J. McGehee		
Signature	<i>Rhea J. McGehee</i>	Date	2/1/05

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Effective on 12/08/2004.
Pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL For FY 2005

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$) 1,370.00

Complete if Known

Application Number	10/763,133
Filing Date	1/22/04
First Named Inventor	Chriswell Hutchens et al.
Examiner Name	
Art Unit	
Attorney Docket No.	84715

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____
☒ Deposit Account Deposit Account Number: 50-0847 Deposit Account Name: SPAWARSSYSCEN SAN DIEGO

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee
☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☒ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description

Each claim over 20 (including Reissues)

Each independent claim over 3 (including Reissues)

Multiple dependent claims

Small Entity	
Fee (\$)	Fee (\$)
50	25
200	100
360	180
Multiple Dependent Claims	
Fee (\$)	Fee Paid (\$)

Total Claims Extra Claims Fee (\$) Fee Paid (\$)

- 20 or HP = _____ x _____ = _____

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims Extra Claims Fee (\$) Fee Paid (\$)

- 3 or HP = _____ x _____ = _____

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets Extra Sheets Number of each additional 50 or fraction thereof Fee (\$) Fee Paid (\$)

- 100 = _____ / 50 = _____ (round up to a whole number) x _____ = _____

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): 1453 - Petition to Revoke, 1,370.00

Fees Paid (\$)

1,370.00

SUBMITTED BY

Signature	<u>Peter A. Lipovsky</u>	Registration No. (Attorney/Agent)	32580	Telephone	619-553-3824
Name (Print/Type)	Peter A. Lipovsky	Date	31 JAN 05		

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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